

Introduced by Senator Murray

February 12, 2004

An act to amend Sections 31492 and 31492.1 of, and to add Section 31760.5 to, the Government Code, relating to county employees' retirement.

LEGISLATIVE COUNSEL'S DIGEST

SB 1260, as introduced, Murray. County employees' retirement: survivor allowance.

The County Employees Retirement Law of 1937 generally provides that, upon the death of a retired member of a county retirement system, the member's surviving spouse or children receive a survivor allowance equal to 60 or 65% of the retired member's retirement allowance unless, at the time of retirement, the member elected to have the actuarial equivalent of his or her retirement allowance applied to a lesser retirement allowance in accordance with one of 4 specified optional settlements. Upon the death of a retired member of Retirement Plan E in Los Angeles County, the member's surviving spouse or children receive a survivor allowance equal to 55% of the retired member's retirement allowance unless, at the time of retirement, the member elected to have the actuarial equivalent of his or her retirement allowance applied to a reduced retirement allowance and an increased survivor allowance payable to his or her designated beneficiary.

This bill would, if approved by the county board of supervisors, authorize a member of a county retirement system, or a member of Retirement Plan E in Los Angeles County, to elect at the time of retirement to have the actuarial equivalent of his or her retirement allowance and the survivor allowance applied to a reduced retirement

allowance and an increased survivor allowance payable to the retired member's surviving spouse and children, as specified.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 31492 of the Government Code is
2 amended to read:

3 31492. (a) (1) Upon the death of a retired member, 50
4 percent of the retirement pension, if not modified in accordance
5 with the optional survivor allowance in subdivision (b) *or* (c),
6 shall be continued during and throughout the life of his or her
7 surviving spouse, if she or he was married to the member at least
8 one year prior to the date of retirement. If there is no surviving
9 spouse entitled to this allowance, or if he or she dies before every
10 child of the deceased retired member, including *every* stepchild or
11 adopted child, attains the age of 18 years, then the allowance ~~which~~
12 ~~that the surviving spouse would have received had she or he lived,~~
13 *survived* shall be paid to the deceased retired member's child or
14 children under the age of 18 years. If the survivor allowance is to
15 be paid to surviving children, ~~the allowance~~ it shall be divided
16 among the children in equal ~~amounts~~ *shares*. However, the right
17 of any child to share in the allowance shall cease upon his or her
18 death, marriage, or upon attaining the age of 18 years.

19 (2) Notwithstanding any other provisions of this subdivision,
20 the allowance otherwise payable to the children of the retired
21 member shall be paid to the children through the age of 21 *years*,
22 if the children remain unmarried and are regularly enrolled as
23 full-time students in any accredited school as determined by the
24 board.

25 (b) (1) *A vested member, or vested former member, in lieu of*
26 *the retirement allowance and survivor allowance, if any, otherwise*
27 *payable to a retired member and his or her surviving spouse*
28 *pursuant to this article, may elect to have the actuarial equivalent*
29 *of these benefits, as of the date of retirement, applied to a lesser*
30 *amount payable throughout the retired member's life and to an*
31 *increased survivor allowance as approved by the board, upon the*
32 *advice of the actuary, continued through the life of and paid to his*
33 *or her surviving spouse, if he or she was married to the member at*

1 least one year prior to the date of retirement. If there is no surviving
2 spouse entitled to this allowance, or if he or she dies before every
3 child of the deceased retired member, including every stepchild
4 and adopted child, attains the age of 18 years, then the increased
5 survivor allowance that the spouse would have received had he or
6 she survived, shall be paid to the deceased retired member's child
7 or children under the age of 18 years. If the increased survivor
8 allowance is to be paid to surviving children, it shall be divided
9 among the children in equal shares. However, the right of any child
10 to share in the allowance shall cease upon his or her death,
11 marriage, or upon attaining the age of 18 years.

12 (2) Notwithstanding any other provision of this subdivision, the
13 increased allowance otherwise payable to the children of the
14 retired member shall be paid to the children through the age of 21
15 years, if the children remain unmarried and are regularly enrolled
16 as full-time students in any accredited school as determined by the
17 board.

18 (3) The election pursuant to this subdivision may not, in the
19 opinion of the board and the actuary, place any additional burden
20 upon the retirement system. If a member makes the election, the
21 member's normal or early retirement benefit shall be reduced by
22 the additional actuarial cost to the system resulting from the
23 increased survivor allowance. The actuarial cost of the survivor
24 allowance payable under this subdivision shall be calculated
25 taking into account the life expectancy of the member's surviving
26 spouse.

27 (4) This subdivision is not operative unless the county board of
28 supervisors, by resolution adopted by a majority vote, makes this
29 subdivision operative in the county. This subdivision applies only
30 to members who retire after the operative date of this subdivision.

31 (c) A vested member, or vested former member, in lieu of the
32 normal or early retirement pension for the retired member's life
33 alone, and the survivor allowance, if any, that would be payable
34 under subdivision (a) or (b), may elect to have the actuarial
35 equivalent of the retired member's pension as of the date of
36 retirement applied to a lesser amount payable throughout the
37 retired member's life, and ~~thereafter to have a survivor allowance~~
38 ~~as approved by the board, upon the advice of the actuary, continued~~
39 ~~that, upon the death of the retired member, shall continue~~
40 throughout the life of and paid to the person or persons having an

1 insurable interest in the life of the retired member, as the member
2 or former member nominates by written designation duly executed
3 and filed with the board at the time of retirement.

4 ~~(e) Designations pursuant to subdivision (b) shall not, in the~~
5 ~~opinion of the board and the actuary, place any additional burden~~
6 ~~upon the retirement system. The member's normal or early~~
7 ~~retirement benefit shall be reduced by the actuarial cost of the~~
8 ~~survivor allowance elected.~~

9 SEC. 2. Section 31492.1 of the Government Code is amended
10 to read:

11 31492.1. (a) Notwithstanding ~~the provisions of~~ Section
12 31492, each monthly survivor allowance paid pursuant to
13 subdivision (a) of Section 31492 on account of a member who
14 retires on or after the operative date of this section shall be equal
15 to 55 percent of the retirement pension, if not modified in
16 accordance with the optional survivor allowance in subdivision (b)
17 or (c) of that section.

18 (b) This section ~~shall~~ is only be applicable to Los Angeles
19 County and ~~shall not become~~ is not operative until the board of
20 supervisors of that county elects, by resolution adopted by a
21 majority vote, to make this section operative in the county.

22 SEC. 3. Section 31760.5 is added to the Government Code, to
23 read:

24 31760.5. (a) Notwithstanding Section 31760 and in lieu of
25 the retirement allowance and the continuing or survivor
26 allowance, if any, otherwise payable to a retired member and his
27 or her surviving spouse pursuant to this article, a member may
28 elect in writing to have the actuarial equivalent of these benefits,
29 as of the date of retirement, applied to a lesser amount payable
30 throughout the retired member's life, and to an increased survivor
31 allowance as approved by the board, upon the advice of the
32 actuary, that, upon the death of the retired member, shall be
33 continued throughout the life of and paid to his or her surviving
34 spouse. To qualify for benefits under this section, the surviving
35 spouse must be married to the member at least one year prior to the
36 date of retirement. If there is no surviving spouse entitled to this
37 allowance, or if the surviving spouse dies before every child of the
38 deceased retired member, including every stepchild and adopted
39 child, attains the age of 18 years, then the increased survivor
40 allowance that the spouse would have received had he or she

1 survived, shall be paid to the deceased retired member's child or
2 children under the age of 18 years. If the increased survivor
3 allowance is to be paid to surviving children, it shall be divided
4 among the children in equal shares. However, the right of any child
5 to share in the allowance shall cease upon the death, marriage, or
6 upon attaining the age of 18 years.

7 (b) Notwithstanding any other provisions of this section, the
8 allowance otherwise payable to the children of the deceased retired
9 member shall be paid through the age of 21 years, if the children
10 remain unmarried and are regularly enrolled as full-time students
11 in any accredited school as determined by the board.

12 (c) The election under this section may not, in the opinion of the
13 board and the actuary, place any additional burden upon the
14 retirement system. If a member elects to be subject to this section,
15 the retirement allowance that would otherwise be payable to the
16 member shall be reduced by the additional cost to the system
17 resulting from the increased survivor allowance. The actuarial cost
18 of the survivor allowance payable under this section shall be
19 calculated taking into account the life expectancy of the member's
20 surviving spouse.

21 (d) This section is not operative unless and until the county
22 board of supervisors, by resolution adopted by a majority vote,
23 makes this section operative in the county. This section applies
24 only to those members who retire after the operative date of this
25 section.

